



CNR: KAHC010102532024

NC: 2026:KHC:51010
CRL.P No. 1737 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

CRIMINAL PETITION NO. 1737 OF 2024

BETWEEN:

1. MR. AJEET KHARE
S/O C.P. KHARE,
AGED ABOUT 73 YEARS,
MANAGING DIRECTOR,
CANARA LIGHTINGS INDUSTRIES PVT LTD.,
R/AT MULKI KINNIGOLI AIRPORT ROAD,
TALIPADY, PUNARAOOR,
MANGALORE,
D.K.DISTRICT-574150.
2. MRS. NEHA KHARE
D/O AJEET KHARE,
W/O ARUN KUMAR A.S.,
AGED ABOUT 43 YEARS,
DY. MANAGING DIRECTOR,
CANARA LIGHTINGS INDUSTRIES PVT. LTD.,
R/AT NO.304,
MAHARAJA EXCELLENCY HAT HITT,
NEAR AIR INDIA OFFICE,
LALBAGH,ASHOKNAGARA,
MANGALORE,
D.K. DISTRICT-575006.
3. MR. KIRAN KHARE
W/O AJEET KHARE,
AGED ABOUT 71 YEARS,

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA



NC: 2026:KHC:51010
CRL.P No. 1737 of 2024

CNR: KAHC010102532024

DIRECTOR,
CANARA LIGHTINGS INDUSTRIES PVT. LTD.,
R/AT: MULKI KINNIGOLI AIR PORT ROAD,
TALIPADY, PUNARAOOR, MANGALORE,
D.K. DISTRICT-574150.

...PETITIONERS

(BY SRI. BALAKRISHNA M.R., ADVOCATE)

AND:

1. THE STATE BY MULKI POLICE STATION,
REPRESENTED BY ITS
STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU-560001.
2. MR. MELWIN ARUN D'CUNHA,
S/. FELIX D'CUNHA,
AGED ABOUT 39 YEARS,
R/AT KRIPAM LOUIS COMPOUND,
PADMANOOR, TALIPADY,
MANGALORE, D.K.DISTRICT-575006.

...RESPONDENTS

(BY SRI.MAHESHA P., HCGP FOR R-1;
SRI.KETHAN KUMAR, ADVOCATE FOR R-2)

THIS CRL.P IS FILED U/S.482 OF CR.P.C PRAYING TO
SET ASIDE THE ORDER OF TAKING COGNIZANCE AND ISSUE
OF PROCESS DATED 01.02.2024 PASSED BY THE SENIOR CIVIL
JUDGE AND J.M.F.C., MOODABIDRI IN C.C.NO.22/2024 FOR
THE OFFENCE P/U /S 447, 504 AND 506 R/W 34 OF IPC,
BASED ON THE PRIVATE COMPLAINT FILED BY THE
RESPONDENT NO.2 AND ETC.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY,
ORDER WAS MADE THEREIN AS UNDER:



CNR: KAHC010102532024

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CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL ORDER

This petition is filed under Section 482 of Cr.P.C. to set aside the order of taking cognizance and to quash the proceedings in CC No.22/2024 arising out of Crime No.140/2021 dated 23.12.2021 filed by Mulki Police Station of Magaluru City, against the petitioners for the offences punishable under Sections 447, 504, 506 r/w 34 of IPC pending on the file of Senior Civil Judge & JMFC, Moodabidri.

2. The brief facts of the case are that respondent No.2-complainant was an employee of Canara Lightings Industries Pvt. Ltd., Mangalore. Petitioner Nos.1 to 3 are the Managing Director, Deputy Managing Director and Director of the said company, respectively. It is the case of respondent No.2-complainant that he was terminated from his employment on 25.02.2021 by the company by issuing a notice/termination letter. Thereafter, the company demanded to hand over the vehicle and other belongings of the company which were in his custody, without clearing his outstanding dues. It is further



CNR: KAHC010102532024

alleged that on 27.06.2021 at about 12.30 p.m., some unidentified and unknown persons trespassed into the residential house of the complainant and introduced themselves as security personnel engaged by the accused persons. After trespassing into the house, they threatened respondent No.2-complainant with dire consequences and issued a life threat. Thereafter, he lodged a complaint before respondent No.1-Police on 03.07.2021. The same was recorded in the form of a Non-Cognizable Report bearing No.245/PTN/MPS/2021.

3. It is the further case of respondent No.2 that the said unknown persons, who claimed to have been engaged by the petitioners, once again committed such an offence by trespassing into the house of the complainant on 22.11.2021 at about 07.00 p.m. and again issued a life threat. According to the complainant, he informed the Police about the said incident. However, the Police failed to take any action against the said persons. Left with no other option, the complainant filed a private complaint before the learned Magistrate under Section 200 of Cr.P.C. alleging commission of offences punishable under Sections 447, 504, 506 and 392 r/w Section 34 of the



CNR: KAHC010102532024

IPC. The learned Magistrate referred the said private complaint to the jurisdictional Police under Section 156(3) of the Cr.P.C. Accordingly, respondent No.1-Police registered a case in Crime No.140/2021 dated 23.12.2021 for the aforementioned offences. Subsequently, the Police investigated the case and filed a 'B' report. Thereafter, the said 'B' report was challenged by the complainant by filing a protest petition before the jurisdictional Magistrate and by examining himself as CW1. The learned Magistrate, after considering the evidence of CWs.1 and 2, including the evidence of the eyewitness to the incident, and the documents marked as Exs.P1 to P10, rejected the 'B' report and took cognizance of the offences against the petitioners. The said order passed by the learned Magistrate has been challenged by the petitioners in the present petition.

4. Heard the learned counsel for the petitioners and the learned counsel for respondent No.2, so also the learned HCGP.

5. Apart from urging several contentions, learned counsel for the petitioners primarily contended that, on the face of the complaint, it is clearly forthcoming that the complainant has



CNR: KAHC010102532024

filed the complaint out of vengeance against these petitioners, who are the Managing Director, Deputy Managing Director and Director of Canara Lightings Industries Pvt. Ltd., where respondent No.2 was working as an employee and was terminated from his employment by order dated 25.02.2021. He further contended that the complainant had filed a frivolous complaint against the petitioners before the Police on 03.07.2021. However, the Police registered the same as a Non-Cognizable report without registering an FIR. As such, the complainant made a repeated attempt by filing a private complaint under Section 200 of Cr.P.C. against the petitioners. Placing reliance on the 'B' report filed by the Police, he contended that, upon conducting a detailed investigation, the Police had not collected any material whatsoever to establish that the alleged incident had occurred on the date and in the manner alleged by the complainant.

6. He further contended that the evidence of CWs.1 and 2 does not corroborate or reiterate the averments made in the complaint. Without properly appreciating the said evidence, the learned Magistrate has erroneously rejected the 'B' report and



CNR: KAHC010102532024

taken cognizance of the alleged offences against the petitioners. Accordingly, he prays to allow the petition.

7. *Per contra*, learned counsel for respondent No.2, while supporting the impugned order taking cognizance, contended that the learned Magistrate, upon meticulous examination of the entire evidence and materials on record, has rightly passed a reasoned order taking cognizance of the offences, which does not call for any interference by this Court. According to him, the evidence of CWs.1 and 2, including the evidence of the eyewitness, clearly reveals that, on the date of the incident, some unknown persons trespassed into the house of the complainant at the instance of the petitioners in order to take back the car and other materials which were in his possession at the time of his termination from employment. In such circumstances, he submitted that the proceedings against the petitioners cannot be quashed. Accordingly, he prays to dismissal the petition.

8. The learned HCGP also supported the impugned order and submitted that evidence of CW1 and PW2 clearly reveals



CNR: KAHC010102532024

the prima facie case against the petitioners. Accordingly prays to dismiss the petition.

9. I have given my anxious consideration both on the submissions of the respective parties and perused the entire Records placed before this Court.

10. As could be gathered from the records, undisputedly, respondent No.2 was an employee of the petitioners' company. It is also not in dispute that he was terminated from the company on 25.05.2021. Subsequently, he lodged a complaint before respondent No.1-Police on 03.07.2021, alleging that on 27.06.2021, some unknown persons had trespassed into his house, introducing themselves as members of the security agency engaged by the petitioners' company. Admittedly, respondent No.2 neither named nor identified the said persons. In the said complaint, except for stating that the said persons had been sent by the petitioners, no specific allegation was made against any identified person. Accordingly, respondent No.1-Police registered the said complaint as an NCR on 03.07.2021. However, once again, respondent No.2 alleged that on 22.11.2021, the same unknown persons had trespassed



CNR: KAHC010102532024

into his house and threatened him with dire consequences. Though he allegedly informed the Police about the said incident, no action was taken. Hence, he proceeded to file the private complaint.

11. On perusal of the private complaint, it is evident that the complainant has not stated the identity of the persons who allegedly entered his house and threatened him and his parents. Even in the private complaint, a specific allegation is made against these petitioners that, at their instance, some unknown persons had trespassed into his house. In such circumstances, it could be gathered that the private complaint has been filed out of vengeance against the petitioners following the termination of respondent No.2 from their company. On perusal of the 'B' report filed by the Police, it is evident that the Police have assigned detailed reasons for arriving at the conclusion that no such incident had taken place either on 27.06.2021 or on 22.11.2021, as alleged by respondent No.2. Upon examining the material witnesses from the company as well as the neighbouring residents, the Police found that the alleged unknown persons had not entered the



CNR: KAHC010102532024

house of respondent No.2 on 22.11.2021. It is specifically stated in the 'B' report that respondent No.2 had lodged the complaint out of vengeance against the petitioners following his termination from the company. It is further stated that, after his termination, respondent No.2 had returned the car belonging to the company, and the company had insisted that he hand over the said vehicle. According to the 'B' report, it was on account of the said dispute that respondent No.2 had lodged a false complaint against the petitioners. The 'B' report further discloses that the Police had examined several persons during the course of investigation and, thereafter, submitted the said report.

12. Despite the filing of the 'B' report, the learned Magistrate has not properly considered the findings recorded therein while rejecting the same and has mechanically relied upon the evidence of CW1, i.e., the complainant, and CW2, who is stated to be an eyewitness to the incident. On perusal of their evidence, it is evident that the same does not contain any material beyond a reiteration of the allegations made by the complainant in the private complaint. In such circumstances,



CNR: KAHC010102532024

the Hon'ble Apex Court, in ***Mahmood Ali v. State of U.P.***, reported in **(2023) 15 SCC 488**, at paragraph Nos.11 to 14, held as under:

"11. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the court owes a duty to look into the FIR with care and a little more closely.

12. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance etc. then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not.

13. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482CrPC or Article 226 of the Constitution need



CNR: KAHC010102532024

not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.

14. *State of A.P. v. Golconda Linga Swamy [State of A.P. v. Golconda Linga Swamy, (2004) 6 SCC 522 : 2004 SCC (Cri) 1805] , a two-Judge Bench of this Court elaborated on the types of materials the High Court can assess to quash an FIR. The Court drew a fine distinction between consideration of materials that were tendered as evidence and appreciation of such evidence. Only such material that manifestly fails to prove the accusation in the FIR can be considered for quashing an FIR. The Court held : (Golconda Linga Swamy case [State of A.P. v. Golconda Linga Swamy, (2004) 6 SCC 522 : 2004 SCC (Cri) 1805] , SCC p. 527, paras 5-7)*

"5. ... Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent such abuse. It would be an abuse of the process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation or continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged



CNR: KAHC010102532024

and whether any offence is made out even if the allegations are accepted in toto.

6. *In R.P. Kapur v. State of Punjab [R.P. Kapur v. State of Punjab, 1960 SCC OnLine SC 21 : AIR 1960 SC 866] , this Court summarised some categories of cases where inherent power can and should be exercised to quash the proceedings : (SCC OnLine SC para 6)*

(i) where it manifestly appears that there is a legal bar against the institution or continuance e.g. want of sanction;

(ii) where the allegations in the first information report or complaint taken at its face value and accepted in their entirety do not constitute the offence alleged;

(iii) where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge.

7. *In dealing with the last category, it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is clearly inconsistent with the accusations made, and a case where there is legal evidence which, on appreciation, may or may not support the accusations. When exercising jurisdiction under Section 482 of the Code, the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it accusation would not be sustained. That is the function of the trial Judge. Judicial process, no doubt should not be an instrument of oppression, or, needless harassment. Court should be circumspect and judicious in exercising discretion and should take all relevant facts and circumstances into consideration before issuing process, lest it would be an instrument in the hands of a private complainant to unleash vendetta to harass any person needlessly. At the same time the section is not an instrument handed over to an accused to short-circuit a prosecution and bring about its sudden death."*

(emphasis supplied)



CNR: KAHC010102532024

13. On collocating the aforesaid findings of the Hon'ble Apex Court with the facts and circumstances of the present case, I am of the considered opinion that the said judgment is squarely applicable to the facts of the present case. On an overall perusal of the charge sheet materials, it is evident that the present case is a clear case of vengeance instituted by respondent No.2 against these petitioners. On an overall perusal of the materials on record, including the evidence adduced by the petitioners and respondent No.2 before the trial Court, I am of the considered opinion that continuation of the proceedings against these petitioners would amount to nothing but an abuse of the process of the Court. Even if the entire material placed by the complainant is taken at its face value, no offence is made out against these petitioners. In such circumstances, continuation of the proceedings would amount to a sheer abuse of the process of the Court. Hence, interference with the impugned order passed by the learned trial Court is called for. Accordingly, placing reliance on the judgment referred to supra, I am of the considered opinion that continuation of the proceedings against these petitioners would



CNR: KAHC010102532024

amount to an abuse of the process of law. Accordingly, I proceed to pass the following:

ORDER

- i. The criminal petition is ***allowed***.
- ii. The order dated 01.02.2024 passed in C.C No.22/2024 by the Senior Civil Judge and JMFC, Moodabidri is set aside.
- iii. The proceedings against the petitioners - accused Nos.1 to 3 in CC No.22/2024 (arising out of Crime No.140/2021 of Mulki Police Station) for the offences punishable under Sections 447, 504, 506 r/w 34 of IPC, pending on the file of Senior Civil Judge and JMFC, Moodabidri is hereby quashed.

**SD/-
(RAJESH RAI K)
JUDGE**

GPG
List No.: 1 Sl No.: 6